

A-9534
K

THIS AGREEMENT, made and entered into by and between the **CITY OF ATLANTIC CITY**, a municipal corporation of the State of New Jersey, located at 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401, hereinafter called "**CITY**", and **JAMES M. RUTALA ASSOCIATES LLC**, with offices located at 717 River Drive, Linwood, New Jersey 08221, hereinafter called "**CONSULTANT**", pursuant to Resolution No. 570 adopted by the Council of the **CITY** on October 18, 2017, a copy of which is attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, there exists a need for the purchase of services of **GRANT ADMINISTRATION AND PROGRAM MANAGEMENT FOR ASSESSMENT OF BROWNFIELD SITES**.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and agreeing to be bound, the **CITY** for itself and its successors, and **JAMES M. RUTALA ASSOCIATES, LLC**, for itself, its successors and assigns, hereby agree as follows:

**SECTION ONE
DEFINITIONS**

Whenever in this Agreement the term "**CITY**" is used or a pronoun in its place, it shall mean and intend the **CITY OF ATLANTIC CITY** and/or Mayor of the **CITY OF ATLANTIC CITY**; wherever the term "**COUNCIL**" is used or a pronoun in its place, it shall mean and intend the governing body of Atlantic City; wherever the term "**CONSULTANT**" or a pronoun in its place is used, the term shall refer to and mean **JAMES M. RUTALA ASSOCIATES, LLC**.

**SECTION TWO
SCOPE OF WORK**

CONSULTANT will provide **GRANT ADMINISTRATION AND PROGRAM MANAGEMENT FOR ASSESSMENT OF BROWNFIELD SITES** in good faith and in accordance with generally accepted grant writing principles and in accordance with **CONSULTANT'S** Statement of Qualifications attached hereto. In the event of any conflict before the terms and conditions of this agreement and attached Qualifications this agreement shall take precedence.

**SECTION THREE
CONTRACT PRICE**

The **CITY** shall pay **CONSULTANT** for the **GRANT ADMINISTRATION AND PROGRAM MANAGEMENT FOR ASSESSMENT OF BROWNFIELD SITES** not to exceed a total sum of **FIFTY THOUSAND DOLLARS (\$50,000.00)**. **CONSULTANT** agrees to provide such consulting services at a rate of **ONE HUNDRED AND THIRTY FIVE DOLLARS (\$135.00) PER HOUR**.

**SECTION FOUR
COSTS OF ACTION**

All costs in connection with the services to be provided by **CONSULTANT** under this Agreement shall not be incurred without the prior approval of the Business Administrator. Specifically excluded is mileage, travel, parking fees, tolls, telephone and meal reimbursement. Duplication costs (photocopying) will be at a rate of ten cents per page.

**SECTION FIVE
PAYMENT METHOD**

Payment for the specified services, furnished, and accepted hereunder, shall be made within **THIRTY (30) DAYS** after the **CONSULTANT** has submitted a monthly invoice/bill based upon the consultants hourly rate and total price set forth in this Agreement, together with a properly executed voucher, to the Comptroller's Office.

**SECTION SIX
CONTRACT PERIOD**

The contract term shall be one (1) year from October 18, 2017..

**SECTION SEVEN
ASSIGNMENT**

The **CONSULTANT** agrees not to assign or sublet this Agreement, in whole or in part, without the written consent of the **CITY**. **CONSULTANT** cannot assign its rights or obligations under this Agreement without the prior written consent of the **CITY**.

SECTION EIGHT INDEMNIFICATION

CONSULTANT shall indemnify, defend and hold harmless the **City** from and against any claim (including any claim brought by employees of **CONSULTANT**), liability, damage or expense (including attorneys' fees) that such **CITY** may incur relating to, arising out of or existing by reason of (i) **CONSULTANT'S** performance of this Agreement or the conditions created thereby (including the use, misuse or failure of any equipment used by **CONSULTANT** its servants or employees) or (ii) **CONSULTANT'S** breach of this Agreement or the inadequate or improper performance of this Agreement by **CONSULTANT** its servants or employees.

SECTION NINE CERTIFICATION OF COMPLIANCE

CONSULTANT represents that it is in compliance with all laws of the State of New Jersey, all Ordinances of the City of Atlantic City, including Ordinance No. 24 of 1993, Executive Order No. 1 of 1993, and Exhibit "A" attached hereto and made a part hereof, involving Affirmative Action and minority business participation and will remain so for the term of this Agreement, and failure to continue in compliance shall be deemed a breach of this Agreement.

SECTION TEN TERMINATION

CITY shall, in its sole discretion, have the right to terminate this Agreement. If, through any cause within the reasonable control of the **CONSULTANT**, the **CONSULTANT** fails to fulfill its obligations under this agreement in a timely and proper manner, the **CITY** shall have the right to terminate the agreement upon written notice to the **CONSULTANT**.

SECTION ELEVEN DOCUMENTS

Original data and reports remain the property of the **CITY**. The **CONSULTANT** will provide copies of all reports to the **CITY**. All such documents will become the property of the **CITY** and the **CITY** will be entitled to retain copies and to reproduce all submitted materials. Further, the data and reports maintained by the **CONSULTANT** cannot be published, reproduced or in any way made public without prior written approval of the **CITY**.

**SECTION TWELVE
INSURANCE**

Without limiting the foregoing, the **CONSULTANT** shall maintain, at its own expense, Professional Liability Insurance in an amount approved by the **CITY'S** Risk Manager, naming the **CITY** as an additional named insured for liability purposes only.

**SECTION THIRTEEN
NOTICES**

All written notices and communications between the parties require or permitted hereunder shall be delivered either personally or mailed by regular mail to the following:

CITY: Director of Revenue & Finance
 Dept. of Revenue and Finance
 Room 506, City Hall
 Atlantic City, New Jersey 08401

with copy to: Business Administrator
 Room 701, City Hall
 Atlantic City, New Jersey 08401

**SECTION FOURTEEN
STATUS OF CONTRACTOR**

It is expressly understood and agreed by and between the parties hereto that the status of the **CONSULTANT** and its employees, officers, and agents shall be that of independent contractors. It is not intended, nor shall it be construed, that the consultant or any of its employees, officers and agents is an employee or officer of the **CITY** for any purpose whatsoever.

**SECTION FIFTEEN
CONFLICT OF INTEREST**

The **CONSULTANT** covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the within Agreement. The **CONSULTANT** further covenants that in the performance of this Agreement no person having any such interest shall knowingly be employed by the **CONSULTANT** or its subcontractors.

**SECTION SIXTEEN
GOVERNING LAW**

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of New Jersey and the Ordinances of the City of Atlantic City.

**SECTION SEVENTEEN
SEVERABILITY**

It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the Courts held to be illegal or in conflict with any Statutes, Regulations or Ordinances of the State of New Jersey, County of Atlantic, or City of Atlantic City, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

**SECTION EIGHTEEN
POLITICAL CONTRIBUTION DISCLOSURE**

This contract has been awarded to **JAMES M. RUTALA ASSOCIATES, LLC** based on the merits and abilities of **JAMES M. RUTALA ASSOCIATES, LLC** to provide the goods or services as described herein. **JAMES M. RUTALA ASSOCIATES, LLC** its subsidiaries, assigns or principals controlling in excess of 10% of the company attest that they are not in violation of New Jersey Pay to Play laws N.J.S.A. 19:44A-20.4, et seq. or Election Law Enforcement Commission N.J.S.A. 19:44A-8 or 19:44A-16 that would affect its eligibility to perform this contract. **CONSULTANT** must comply with "Local Unit Pay-to-Play Law" (P.L. 2004, c.19, as amended by P.L. 2005, c. 51) and City of Atlantic Ordinance No. 11 of 2011 establishing that business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Atlantic City;

**SECTION NINETEEN
MODIFICATION OF AGREEMENT**

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

CONSULTANT acknowledges that he/she cannot commence or continue to provide professional services to the City or any named individual or incur any expenses that would cause the contract amount to be exceeded without first receiving prior written authorization from the Business Administrator. Additionally, the City requires a 30 day notice including a case status report setting forth an estimate of the fees and costs anticipated whenever a request is made for a Change Order that would cause the contract amount to be exceeded.

Further, the City will not accept invoices representing time and expenses that were performed or incurred outside or beyond the contract end date.

Any work not specifically authorized may be rejected for payment at the discretion of the City.

The within Agreement is effective as of the date of the Mayor's signature.

IN WITNESS WHEREOF, the **CITY** has caused the Seal of the City of Atlantic City to be hereto affixed and this Agreement to be signed by the Mayor and attested by the City Clerk thereof, and the **CONSULTANT** has caused this Agreement to be executed by its President and attested by its Secretary and its corporate seal to be hereto affixed the day and year first below written.

ATTEST:

CITY OF ATLANTIC CITY

Paula Geletei
Paula Geletei, City Clerk

BY: Donald A. Guardian
Donald A. Guardian, Mayor

Date: 11/30/17

WITNESS:

JAMES M. RUTALA ASSOCIATES, LLC.

Michael J. Rutala
Secretary

BY: James M. Rutala

The within Agreement approved as to form and execution.

Date: 11-29-17

By: Michael J. Perugini
Michael J. Perugini, Esq.
Deputy City Solicitor

STATE OF)
) ss.
COUNTY OF)

I CERTIFY that on November 27, 2017, personally came before me James M. Rutala, a principal of the Limited Liability Corporation, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is a principal of RUTALA ASSOCIATES (the limited liability corporation named in this document);
- (b) this person has the power and authority to sign this document on behalf of the limited liability corporation;
- (c) this document was signed and delivered by the limited liability corporation as its voluntary act duly authorized by a proper action of the principals of the limited liability corporation; and
- (d) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

James M. Rutala
Principal

Nov. 27, 2017

Leigh A. Napoli
Notary Public of
(Seal attached)



Resolution of the City of Atlantic City

No. 570

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Deputy City Solicitor /s/Michael J. Perugini

Acting Director of Planning & Development, Benjamin Kaufman

Prepared by City Solicitor's Office

Council Members SHABAZZ, KURTZ & RANDOLPH present the following Resolution:

RESOLUTION AUTHORIZING ENVIRONMENTAL AND GRANT CONSULTANTS FOR BROWNFIELD ASSESSMENT PROGRAM

WHEREAS, the City of Atlantic City ("the City") has been awarded two grants totaling \$400,000 from the United States Environmental Protection Agency to funds the assessment of sites that potentially have been contaminated with petroleum and hazardous materials; and

WHEREAS, the City of Atlantic City requires the services of consultants to implement a Brownfields assessment program; and

WHEREAS, the City has advertised for and received Qualifications for Environmental Consultants and Grant Consultants under a fair and open process; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Atlantic City that the Mayor is hereby authorized to execute and City Clerk to attest the following for the period of the grant to be approved as to form and execution by the City Solicitor, which contract shall set forth more specifically the services to be performed:

Marathon Engineering - \$50,000 for Assessment Review

Environmental Resolutions, Inc. - \$50,000 for Environmental Site Assessments

CME Associates - \$50,000 for Environmental Site Assessments

Rutala Associates - \$50,000 for Grant Administration and Program Management

BE IT FURTHER RESOLVED, that these contracts are awarded pursuant to the Fair and Open Process in accordance with the Pay to Play Law (NJSA 19:44A-20.4 et seq.); and

BE IT FURTHER RESOLVED, that a copy of this Resolution be published in The Press at least once pursuant to the requirement of NJSA 40A:11-1 et seq., as amended; and

BE IT FURTHER RESOLVED, that a Certification from the Chief Financial Officer has been attached to this Resolution, showing that availability of funds from the 2017 Budget.

kc November 2, 2017 11:36 AM

DO NOT USE SPACE BELOW THIS LINE													
RECORD OF COUNCIL VOTE ON FINAL PASSAGE													
COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
CHENG	X						MARSH	X					
DELGADO		X					RANDOLPH	X				X	
GILLIAM	X						SHABAZZ	X					X
KURTZ	X						TIBBITT	X					
SMALL, PRESIDENT								X					
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: OCTOBER 18, 2017

/s/ Paula Geletei, City Clerk